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2004 DEC 10 P 4: 10

DISTRICT OF UTAH

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**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	MEMORANDUM IN OPPOSITION
	:	TO MOTION TO SUPPRESS
v.	:	
	:	
BRYAN JONES,	:	Case No. 04CR510PGC
	:	
Defendant	:	JUDGE PAUL G. CASSELL

The United States respectfully submits the following memorandum in opposition to
Defendant's Motion to Suppress:

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33

BRIEF STATEMENT OF FACTS

- I. On 07/15/04, Agent Ross (FBI) received information from the Seattle, Washington FBI office information that a juvenile in Salt Lake City may be having sex with a male from Seattle that had already been identified as Bryan Vance Jones. Seattle FBI identified Jones as the owner of the email account used in this case and served a valid warrant on this account. Agent Eric Anderson, Internet Crimes Against Children Task Force (ICAC), using local law enforcement databases, identified the juvenile in Salt Lake City as M.S., DOB 03/18/89.
- II. M.S. was contacted on 07/16/04 at her residence in Salt Lake City. M.S. subsequently disclosed in a Children's Justice Center interview that she had sex with Bryan Vance Jones (further identified by her as a 43-year-old male from Seattle/Tacoma, Washington) on two occasions where Jones traveled to Salt Lake City for that purpose. According to M.S., the first occasion that she had sex with Jones happened on or about April 7th, 2004.
- III. On or about April 7th, M.S. was picked up near her house by Jones who was driving his vehicle, a red Chrysler convertible. Jones transported M.S. to his hotel room, located near downtown Salt Lake City in Salt Lake County. M.S. further disclosed that she had sex with Jones in his hotel room. Jones then transported her back near her house where she then entered her home, not disclosing the incident details to anyone.

- IV. Soon after the first incident, Jones contacted M.S. via email and telephone and asked her if he could visit her again in Salt Lake City. On or about May 17th, M.S. was picked up by Jones in his red Chrysler convertible near her aunt's house in Salt Lake City. Instead of attending school, Jones was transported by Jones to his hotel room where they had sex several times over the period of approximately 3 hours. During that time, Jones administered to her an alcoholic beverage, making her feel "buzzed" and "sick." M.S. stated that Jones did not wear a condom on the second incident because she believed he wanted to get her pregnant. Jones then transported M.S. to school where she forged a note saying she had a doctor's appointment, excusing her absence.
- V. Also during the CJC interview, M.S. identified several items that Jones had given to her or sent her in the mail, including several pairs of girl's underwear, tokens saying, "I miss you," etc., and several cards stating the love Jones felt for M.S. These items were seized and are now held as evidence. M.S. further disclosed that Jones was to travel to Salt Lake City the following week in order to meet with her again. M.S. believed the purpose of this visit would be to have sex again.
- VI. Agent Ross also received several copies of emails from Seattle, WA FBI, detailing the sexual nature of the relationship between Jones and M.S., including dialogue about pregnancy and the future of the relationship between Jones and

M.S. M.S. identified the emails as true and correct dialogue between Jones and herself.

STATEMENT OF THE ISSUES

The first issue herein is whether Defendant's motion should be returned for resubmission or denied. The second issue is whether Defendant's motion to suppress should be denied because the subject search was incident to a valid warrant.

SUMMARY OF THE ARGUMENT

The Defendant's motion fails on two accounts. One, it is procedurally defective. It was filed without the requisite accompanying memorandum. Two, it is substantively defective in that it asserts that there was a first search by police or a government agent. The only search the government made was pursuant to a warrant. The information leading to this warrant came, not from a search by police, but by a confidential informant who is not and never has been a government agent.

ARGUMENT

I. THE DEFENDANT FAILED TO FILE HIS MEMORANDUM IN SUPPORT OF HIS MOTION, THEREFORE, THE MOTION SHOULD NOT BE CONSIDERED.

The issue herein is whether Defendant's motion should be returned for resubmission or denied.

Utah Local Rule 7-1¹ of the District Court Civil Rules states:

¹ DUCrimR 47-1 states: "The preparation and filing of motions and supporting memoranda in criminal matters is governed by DUCivR 7-2."

Memoranda of Supporting Authorities. Except as noted below or otherwise permitted by the court, each motion must be accompanied by a memorandum of supporting authorities that is filed or presented with the motion. Although all motions must state grounds for the request and cite applicable rules, statutes, or other authority justifying the relief sought, no memorandum of supporting authorities is required for the following types of motions

Thus, Defendant's motion should have been accompanied by a supporting memorandum. It was not. Rule 7-1(a) states:

Failure to comply with the requirements of this section may result in sanctions that may include (i) returning the motion to counsel for resubmission in accordance with the rule, (ii) denial of the motion, or (iii) other sanctions deemed appropriate by the court. Merely to repeat the language of a relevant rule of civil procedure does not meet the requirements of this section.

Therefore, Defendant's motion should be returned for resubmission or denied.

II. THE DEFENDANT'S MOTION SHOULD BE DENIED BECAUSE THE SEARCH OF DEFENDANT'S FILES WAS INCIDENT TO A VALID WARRANT.

The second issue herein is whether Defendant's motion to suppress should be denied because the subject search was incident to a valid warrant. *See* Exhibit A attached hereto and incorporated herein by this reference – Application and Affidavit for Search Warrant and Search Warrant issued by the Honorable Philip K. Sweigert of the United States District Court for the Western District of Washington.

Defendant claims that the search of his e-mail files was “without probable cause, without exigent circumstances and without a warrant.” Defendant's Motion at 1. He claims, without foundation, that there were two searches of his e-mail by police and/or government agents. *Id.* There was only one search by the government, or its agents, and that was through the use of this warrant. There was a confidential informant (“CI”) in this case. The fact that that person may

have viewed evidence which lead the CI to contact law enforcement, does not make the CI an agent of the government.

The search of Defendant's e-mail accounts was in accord with his Fourth Amendment rights under the United States Constitution. His motion is unfounded.

CONCLUSION

For the foregoing reasons, the Government respectfully requests that this Court deny Defendant's Motion.

DATED this 10th day of December, 2004.

Respectfully,

PAUL M. WARNER
United States Attorney

A handwritten signature in black ink, appearing to read 'Paul G. Amann', written over a horizontal line.

PAUL G. AMANN
Special Assistant United States Attorney

CERTIFICATION OF SERVICE

I HEREBY CERTIFY that I am a Special Assistant United States Attorney, and that a copy of the foregoing MEMORANDUM in Opposition to Motion to Suppress was mailed to counsel for Defendant, named below, this 10th day of December, 2004.

Richard P. Mauro
Attorney for Bryan Jones
43 East 400 South
Salt Lake City, Utah 84111
(801) 363-9500

A handwritten signature in black ink, appearing to read "R. Mauro", is written over a horizontal line.

Exhibit A

LOGGED

ENTERED

RECEIVED

United States District Court

JUL 23 2004

WESTERN DISTRICT OF WASHINGTON

AT SEATTLE
CLERK U.S. DISTRICT COURT
In the Matter of the State of Washington
DEPUTY

(Name, address or brief description of person, property, or premises to be searched)

APPLICATION AND AFFIDAVIT
FOR SEARCH WARRANT

CASE NUMBER:

04-4174

The MSN Hotmail accounts known as bryanyviones@hotmail.com
and bryanvancejones@hotmail.com located
at 1065 La Avenida, Building 4, Mountain View, California 94043

I, David Williams, being duly sworn depose and say:

I am a(n) Special Agent of the Federal Bureau of Investigation and have reason to believe that () on the person of or
(X) on the property known as (name, description and/or location)

The MSN Hotmail accounts known as bryanyviones@hotmail.com and bryanvancejones@hotmail.com located at 1065 La Avenida,
Building 4, Mountain View, California 94043

there is now concealed a certain person or property, namely:
(describe the person or property to be seized)

See Attachment A, attached hereto and incorporated herein by reference

CERTIFIED TRUE COPY
ATTEST: BRUCE RIFKIN
Clerk, U.S. District Court
Western District of Washington

By [Signature]
Deputy Clerk

which is (state one or more basis for search and seizure set forth under Rule 41(b) of the Federal Rules of Criminal Procedure)

evidence, fruits, and instrumentalities of the crimes of sexual exploitation of children, certain activities relating to material
constituting or containing child pornography, and travel with intent to engage in sexual acts with a juvenile,

concerning a violation of Title 18, United States Code, Section(s) 2251(a), 2252A, and 2423(b). The facts to support a finding
of Probable Cause are as follows:

See Attached AFFIDAVIT OF DAVID WILLIAMS, attached hereto and incorporated herein by reference

Continued on the attached sheet and made a part hereof.

(X) Yes () No

[Signature]
Signature of Affiant
DAVID WILLIAMS

Sworn to before me, and subscribed in my presence:

July 24, 2004
Date

at Seattle, WA
City and State

PHILIP K. SWEIGERT
United States Magistrate Judge
Name and Title of Judicial Officer

[Signature]
Signature of Judicial Officer

United States District Court

WESTERN DISTRICT OF WASHINGTON

In the Matter of the Search of

SEARCH WARRANT

The MSN Hotmail accounts known as bryanvjones@hotmail.com and bryanvancejones@hotmail.com, located at
at 1065 La Avenida, Building 4, Mountain View, California 94043

CASE NUMBER: 04-4174

To: Custodian of Records, MSN Hotmail, 1065 La Avenida, Building 4, Mountain View, California 94043:

Affidavit(s) having been made before me by David Williams, who has reason to believe that () on the person of or (X) on the property or premises known as MSN Hotmail E-mail accounts bryanvjones@hotmail.com and bryanvancejones@hotmail.com.

there is now concealed a certain person or property, namely: logs and account information for those accounts together with the contents of electronic communications between those accounts and others, which constitutes evidence, fruits, and instrumentalities of crime relating to violations of Title 18 U.S.C. §§ 2251(a) (Sexual Exploitation of Children), 2252A (Certain Activities Relating to Material Constituting or Containing Child Pornography), and 2423(b) (Travel with Intent to Engage in Sexual Acts with a Juvenile), as further described in Attachment A, attached hereto and incorporated herein by reference.

I am satisfied that the affidavit(s) which is incorporated by reference in this search warrant and any recorded testimony establish probable cause to believe that the person or property so described is now concealed on the person or premises above-described and establish ground for the issuance of this warrant.

YOU ARE HEREBY COMMANDED to promptly produce to Special Agent David Williams, or any other Special Agent of the Federal Bureau of Investigation, any and all records associated with said accounts, to include unopened E-mails, stored E-mails, logs, and account information. Special Agent Williams, or any other Special Agent of the FBI, is then commanded to search those accounts on or before 8/3/04 for the property specified, serving this warrant and making the search in daytime - 6:00 AM to 10:00 PM and if the person or property be found there to seize same, serving a copy of this warrant and receipt for the property taken, and prepare a written inventory of the person or property seized and promptly return this warrant to a U.S. Magistrate Judge as required by law. Any information produced by MSN Hotmail that is not described in this warrant is to be returned by the FBI following the execution of this Warrant.

July 22, 2004
Date

at Seattle, Washington
City and State

PHILIP K. SWEIGERT
United States Magistrate Judge
Name and Title of Judicial Officer

[Signature]
Signature of Judicial Officer

CERTIFIED TRUE COPY
ATTEST: BRUCE RIFKIN
Clerk, U.S. District Court
Western District of Washington

By [Signature]
Deputy Clerk

0000211

RETURN

DATE WARRANT RECEIVED

DATE & TIME WARRANT EXECUTED

COPY OF WARRANT & RECEIPT
FOR ITEMS LEFT WITH

INVENTORY MADE IN THE PRESENCE OF

INVENTORY OF PERSON OR PROPERTY TAKEN PURSUANT TO THE WARRANT

CERTIFICATION

I swear that this inventory is a true and detailed account of the person or property taken by me on the warrant.

Subscribed, sworn to, and returned to me this date._____
U.S. Judge or Magistrate_____
Date

0000212

AFFIDAVIT

STATE OF WASHINGTON
COUNTY OF KING

ss

I, DAVID WILLIAMS, being first duly sworn, state as follows:

1. I am a Special Agent ("SA") with the Federal Bureau of Investigation ("FBI"), currently assigned to the FBI Field Office in Seattle, Washington. I am responsible for enforcing Federal criminal statutes over which the FBI has jurisdiction, including crimes against children and the sexual exploitation of children by means of the Internet.

2. This affidavit is submitted in support of an application for a search warrant for certain accounts controlled by the electronic mail ("email") service provider known as MSN Hotmail, located at 1065 La Avenida, Building 4, Mountain View, California, 94043. The accounts to be searched are all stored communications and other files reflecting communications to or from the following accounts:

a. bryanviones@hotmail.com; and

b. bryanvancejones@hotmail.com.

As set forth herein, I submit that there is probable cause to believe that on the computer systems of MSN Hotmail there exists instrumentalities, fruits, and evidence of violations of Title 18, United States Code, Sections 2251(a) (Sexual Exploitation of Children), 2252A (Certain Activities Relating to Material Constituting or Containing Child Pornography), and 2423(b) (Travel with Intent to Engage in Sexual Acts with a Juvenile).

3. The items that are the subject of the search and seizure applied for in this affidavit are set forth in Attachment A, and are incorporated herein by reference.

4. The statements contained in this affidavit are based in part on information provided by Special Agents of the FBI, and on my experience and background as an Agent with the FBI. Since this affidavit is being submitted for the limited purpose of

AFFIDAVIT OF DAVID WILLIAMS - 1

0000213
UNITED STATES ATTORNEY
601 Union Street, Suite 5100
Seattle, Washington 98101-3903

1 securing a search warrant, I have not included each and every fact known to me
2 concerning this investigation. I have set forth only the facts that I believe are necessary to
3 establish probable cause to believe that evidence of violations of Title 18, United States
4 Code, Sections 2251(a), 2252A, and 2423(b), is located at the above address.

5 5. Based on my training and experience, I am aware that MSN Hotmail
6 provides subscriber-based email services, and that stored communications, including
7 opened and unopened email for MSN Hotmail subscribers, may be located on the
8 computers of MSN Hotmail.

9
10 **FACTS SUPPORTING PROBABLE CAUSE**

11 6. On June 14, 2004, FBI SA Kera Wulbert was contacted by a Confidential
12 Informant ("CI") who stated that he/she had physical evidence showing that BRYAN
13 VANCE JONES was communicating with juvenile females through the Internet. The CI
14 identified JONES as a native of Tacoma, Washington, born on April 16, 1961. The CI stated
15 that JONES used several email addresses, including: bryanvjones@hotmail.com;
16 bryanvancejones@hotmail.com; bryanvjones@yahoo.com; and
17 bryanvancejones@yahoo.com. The CI stated that JONES saved email messages received
18 from juvenile females on the email addresses listed above. The CI said that JONES would
19 occasionally clean out one email account by sending the messages to one of his other
20 accounts for additional storage.

21 7. The CI claimed to have email evidence showing that JONES had traveled
22 from Washington to Utah on two occasions to engage in sexual contact with a fifteen year
23 old female. The CI also stated that he/she believed that JONES intended to travel to Utah for
24 a third time during the third weekend in July of 2004.

25 8. In addition, the CI stated that JONES possessed digital images of a fourteen
26 year old female's naked genitals and exposed breasts. According to the CI, this second
27 juvenile resided in Minnesota and had sent the pornographic images of herself through the
28 Internet at JONES' request.

1 9. The CI stated that JONES did not own a computer, but rather accessed the
2 Internet through computers at public libraries, including the Sumner Public Library, while
3 on breaks from his job at Sumner Tractor. The CI stated that JONES had also used the CI's
4 computer to access the Internet. The CI explained that the CI had also been able to access
5 JONES' email accounts through the CI's computer.

6 10. On June 15, 2004, SA Wulbert and I met with the CI. The CI gave us an
7 envelope containing copies of printed email messages from JONES' email accounts..

8 11. SA Wulbert and I reviewed the email messages provided by the CI. The
9 email headers (including the addressee, date and time sent, sender and subject lines) showed
10 that the majority of the email messages were sent to the email address
11 bryanvjones@hotmail.com. Several of the messages received by bryanvjones@hotmail.com
12 also contained attached text of previous messages sent by bryanvjones@hotmail.com.

13 12. The printed e-mails provided by the CI included numerous emails from
14 Juvenile 1, later identified as a fifteen year old female residing in Salt Lake City, Utah, to
15 bryanvjones@hotmail.com. The following are excerpts from those messages:

16
17 • "... If I was to have your baby would you be there to help me and be a good dad?
18 Or would you just likemove [sic] away somewhere and never see us again?" [Dated
19 Thursday, March 11, 2004]

20
21 • "Hey, Will [sic] I'm bored I have no homework and I'm just sitting here. When do
22 you leave work? So your last name is Jones? When we meet do you want to make
23 a baby right there at that moment? ... So would you really move here if I have a
24 baby? Would you be there for me every day, second, hour, and minute to help me
25 with the baby? And when I need you? Would you move where ever I go to college?
26 And where ever my job takes me? I love you! ..." [Dated Tuesday, March 16, 2004]

27
28 • "BRYAN, I'M MAD AND PISSED! SOME THINGS ABOUT YOU JUST MAKE

1 ME MAD! LIKE RIGHT NOW! WHAT IS SO IMPORTANT ABOUT NUDE
2 PICTURES! IF YOU LOVED ME THEN YOU WOULDN'T LET ME TAKE
3 THEM IF I DIDN'T WANT TO! RIGHT! WILL [sic] DO YOU LOVE ME? I
4 DON'T KNOW IF I SHOULD SEND YOU ANYTHING! I'M THAT MAD AT
5 YOU! AND SAD AT THE SAME TIME! I'M ABOUT READY TO CRY. I thought
6 I meet [sic] someone that I could spend my life with, but I don't know anymore. Are
7 you that person I'm supposed to be with? . . . " [Dated Monday, April 12, 2004]

8
9 • "Bryan, Today you left and I'm glad I talked to you this morning . . . " [Dated Friday,
10 April 30, 2004]

11
12 • "Bryan, I just realized I have been throwing up in the morning. I hope that it caused
13 by what I ate. Did you cum in me? Be honest and don't lie! If I should get my period
14 before next week if not I'm screwed. I have been thinking about this a lot and hope
15 you didn't cum in me I got to its lunch time talk to you tonight at 8:00pm my time.
16 Email back, I'm gonna check my email during Religion class . . . " [Dated Friday, May
17 7, 2004]

18
19 • "Bryan, Hey your in town I'm just wondering where you are right now . . . I guess
20 when we meet up I'll tell you abut this email so you don't have to wait. I got to go I'll
21 see you tomorrow. I love you and I feel better that you are here in the same city with
22 me at least your closer to me. I love you' . . . " [Dated Sunday, May 23, 2004]

23
24 • "Bryan, I just saw you like almost 3 hours ago I'm wondering where you are right
25 now. Today was good I didn't know I could cum that much. I lost track of how many
26 times." [Dated Monday, May 24, 2004]

27
28 • "Bryan, At least I told you the truth and didn't keep it form you, because we don't

1 secrets from eachother [sic] right? I honestly did not fuck him. Last night when you
2 were pissed I came so close to killing the baby off, but I realized I love you so much
3 and I wanted to have a baby with you. The reason why I almost killed it off was
4 because you said 'I want you to do what I suggest you to do.' That told me I have to
5 listen to you like your parent and that you owned me and I couldn't do what I want.
6 Then I thought you aren't theh [sic] right person for me. Bryan I do love you, but I
7 don't want you to be telling me what to do when we are together forever. If you do
8 tell what to do then we have a problem. Bryan I love you, I miss you so much, I want
9 to be with you, and I want to have this baby with you. the baby is going to be so lucky
10 to have a daddy like you. I got to get back to school work. I'll talk to you tonight
11 9:00pm my time." [Dated Monday, June 7, 2004]

12
13 The following e-mail message appears to have been sent from bryanvjones@hotmail.com to
14 Juvenile 1, as it was attached to an email response from Juvenile 1:

15
16 • "I have NO meeting tonight my love! I love you babe! and i miss you so very much!
17 I want to have a baby with you! and I DO NOT want you to fuck anyone else! i want
18 your awesome [sic] pussy to be mine and only mine from now on! So I can call you
19 anytime you get off of work?" [Dated Thursday May 20, 2004]

20
21 13. SA Wulbert and I also reviewed numerous e-mail message sent from Juvenile
22 2, who identified herself as a fourteen year old female residing in Minnesota, to
23 bryanvjones@hotmail.com. The following are portions of these e-mail communications:

24
25 • "...I was gonna call u the other day but my computer wouldnt [sic] let me go to my
26 email box to get ur [sic] number . . . SORRY Anyway i was gonna send u [sic] a pic
27 [sic] of my ass but i gave the webcam back and i had to delete the pic [sic] cuz [sic]
28 my cousin was fixin [sic] my computer My b-day was yesterday!!! 14 yay [sic] I

1 donno [sic] when u can call me yet but I'll [sic] let ya [sic] know!" [Dated Wednesday,
2 December 24, 2003]

3
4 • "I wont [sic] have the internet anymore becuz [sic] the pic [sic] of my ass i sent u [sic]
5 i forgot to delete it and my sis saw it and told my mom so its gettin [sic] disconnected
6 tomorrow . . . I will keep ur [sic] # and call you every chance i get and I'll try to use
7 my friends comps [sic] to check my email 2!! i luv [sic] u [sic]! im cryin [sic] so bad
8 rite [sic] now cuz [sic] my mom thinks i do child porn . . . " [Dated Tuesday, January
9 6, 2004].

10
11 • "... ok if you wanna [sic] c [sic] my basketball pic [sic] you go to www.lincolnhigh.org
12 then click lincoln hi high school, then on this side click athletics, then girls basketball,
13 then go down n [sic] click 7-8th grade girls and then u [sic] should c [sic] it . . ."
14 [Dated February 16, 2004]

15
16 • "hey sweetie . . . i don't kno [sic] how to put this without you taking it the wrong way
17 but i think we're drifting apart and i don't feel the way i used 2 . . . i still love ya and
18 i always will but it seems like it not as good of a relationship as it used 2 be . . . now
19 that i think about it 2 . . . having phone sex wasn't something i really liked doing . . .
20 I'm only 14 . . . n I'm acting like I'm 17- i don't kno maybe we can get over this but I'm
21 not feelin the same way anymore . . . love ya" [Dated May 18, 2004]

22
23 The following e-mail messages appear to have been sent from bryanyjones@hotmail.com to
24 Juvenile 2 , as these messages were attached to her responses:

25
26 • "... I'm very worried about you! tell me what is going on ? do you still >want to get
27 together the last week in April? im [sic] making plans to cum > you way baby o we
28 can spend a day or two together...sorry it >cant [sic] be more, but i will make it more

1 the next time! I just want us> to be together! I love you with all my heart and you are
2 in my >thoughall day and every night!>>I hope your not in much trouble! call me at
3 work 800-422-5723 and > just say hi! I miss and love you my darling!>>All my love
4 and more!>>Bryan>xox>> PS: don't forget to give me your street address so i can get
5 to your>house to pick you up babe!>>Love ya!>>ME!" [Dated April 16, 2004]

6
7 ". . . You should try and sneak in a call to me my love, i miss you so very >much!
8 Playing with my hard cock is not the same with out you to >listen to me cum! I miss
9 making you cum baby! Call me! >>All my love and more . . . >>Bryan>xox> > PS:
10 I'm glad you did not flash him for beer . . . Remember, we are >still b/f & g/f right?
11 we promised to be good! love ya! > > Bryan . . . " [Dated May 3, 2004]

12
13 14. In addition to the information provided by the CI, I am aware of other evidence
14 showing that JONES has email accounts with both Yahoo! and MSN Hotmail. On July 12,
15 2004, a Yahoo! Compliance Manager provided a response to an administrative subpoena sent
16 by the Seattle Division of the FBI requesting information pertaining to
17 bryanvjones@yahoo.com and bryanvancejones@yahoo.com. The "account manager" for the
18 bryanvjones@yahoo.com account lists bryanvjones@hotmail.com as an "Alternate Email
19 Address". It also shows that the user of this account listed his full name as "Mr bryan jones",
20 residing in Tacoma, Washington, 98446. The "account manager" for the
21 bryanvancejones@yahoo.com account does not list an alternate email address. It shows the
22 user of this account to be "Mr. Bryan Jones" residing in Tacoma, WA 98446.

23 15. Additionally, in an email from bryanvjones@yahoo.com to Juvenile 2 on
24 March 4, 2004, JONES stated, ". . . For some reason my msn is not working, so i wanted to
25 write to you to tell you how much i love and miss you Babe! I hope you can call me soon!
26 All my Love, Bryan xox". In the other printed email messages, provided by the CI, the
27 email messages relating to Juvenile 2 are received by or sent from
28 bryanvjones@hotmail.com.

1 16. On July 13, 2004, the MSN Hotmail Custodian of Records provided a response
2 to an administrative subpoena sent by the Seattle Division of the FBI requesting information
3 pertaining to the email addresses bryanvancejones@hotmail.com and
4 bryanvjones@hotmail.com. The profiles for both of these addresses show that the user of
5 the accounts listed his name as Bryan Jones, residing in Washington state with a zip code of
6 98446. MSN Hotmail provided a list of I.P. addresses which are associated with the
7 bryanvancejones@hotmail.com and bryanvjones@hotmail.com email addresses, along
8 with the related access dates and times.

9 17. SA Wulbert obtained records from the National Crime Information Center
10 ("NCIC") and Department of Licensing relating to BRYAN VANCE JONES with a date of
11 birth of April 16, 1961. These records show that JONES' Washington state driver's license
12 and vehicle registration list his address as 15302 50th Avenue East, Tacoma, Washington
13 98446. This zip code is consistent with the profile information provided by MSN Hotmail
14 associated with the email addresses of the MSN Hotmail and Yahoo! accounts associated
15 with JONES.

16 18. On or around July 13, 2004, SA Wulbert called the telephone number, 800-
17 422-5723, provided by bryanvjones@hotmail.com to Juvenile 2 in an e-mail message dated
18 April 16, 2004. The telephone was answered by an answering service for "Sumner Tractor,"
19 which the CI had earlier identified as JONES' employer

20 19. On July 16, 2004, S/A Wulbert and I interviewed Paul Mosby, General
21 Manager for Sumner Tractor and Equipment. Mosby confirmed that JONES worked for
22 Sumner Tractor, and told us that JONES was scheduled for to take vacation on July 22 and
23 23 of 2004.

24 20. SA Wulbert discussed this investigation with FBI Special Agents in the Salt
25 Lake City Division of the FBI. On July 16, 2004, SA Wulbert was contacted by SA Jeffrey
26 Ross of the Salt Lake City FBI. SA Ross stated that the FBI had located Juvenile 1's
27 residence after identifying her through local law enforcement databases. Juvenile 1 disclosed,
28 during a subsequent interview, that she had sex with JONES (who she identified as a forty-

1 three year old male from the Seattle/Tacoma area) on two occasions after JONES had
2 traveled to Salt Lake City for that purpose. She further stated that JONES did not wear a
3 condom during at least one of their sexual encounters, and she believed that he did so
4 because he wanted to get her pregnant. Juvenile 1 confirmed that JONES intended to travel
5 to Salt Lake City the following week to meet with her again. Juvenile 1 stated that she
6 believed the purpose of JONES' planned travel to Salt Lake City from Washington was to
7 have sexual intercourse with her. SA Ross showed Juvenile 1 several of the email messages
8 provided by the CI. Juvenile 1 identified the emails as true and correct emails between
9 JONES and herself. Juvenile 1 subsequently disclosed that she had told JONES, at or around
10 the time of his first visit to Utah, that she was fifteen years old.

11 21. Based on this information, Detective Eric Anderson of the West Valley City
12 Police Department obtained an arrest warrant from the Third District Court of Salt Lake
13 County, Utah. The warrant authorized the arrest of JONES for eight counts of unlawful
14 sexual activity with a minor.

15 22. After receiving a facsimile of the arrest warrant, Special Agents from the
16 Seattle Division FBI and Officers from the Pierce County Sheriff's Office arrested JONES
17 at his residence located at 15302 50th Avenue East, Tacoma, Washington.

18 23. After his arrest, SA Wulbert read JONES his Miranda Rights from a FD-395,
19 Advice of Rights Form. JONES agreed to talk to the agents without an attorney and waived
20 his Miranda rights in writing.

21 24. During the following interview, JONES confirmed that he utilizes several
22 email addresses, including: bryanvjones@hotmail.com; bryanvancejones@hotmail.com;
23 bryanvjones@yahoo.com; and bryanvancejones@yahoo.com. JONES also said that he did
24 not have a computer at home. Rather, he accessed the Internet and his email accounts
25 through the computers at the Sumner Library. JONES said that he would sometimes use the
26 computers at his job, Sumner Tractor.

27 25. JONES said that he met Juvenile 1 through an Internet chat room. JONES and
28 Juvenile 1 communicated through email messages, instant messaging chat, and over the


1 telephone. JONES stated that he and Juvenile 1 engaged in "role playing" where they
2 discussed sexual fantasies. JONES admitted that he had driven from Washington to Utah
3 twice in the spring of 2004. JONES admitted that, during both visits, he had met with
4 Juvenile 1 and had sexual intercourse with her in a hotel room that he rented. JONES
5 claimed that he believed that Juvenile 1 was approximately "eighteen or nineteen" years old.
6 JONES was aware that Juvenile 1 lived with her parents in Salt Lake City, Utah. JONES
7 acknowledged that Juvenile 1 sometimes mentioned hobbies or daily routine activities that
8 suggested that she was a minor, but JONES claimed that he assumed that this was "role
9 playing."

10 26. JONES further stated that he had engaged in sexual conversations with
11 Juvenile 2, who resided in Minnesota. JONES stated that he had not traveled to visit Juvenile
12 2 because he was concerned about her age. JONES stated that he believed Juvenile 2 to be
13 between seventeen and eighteen years old. JONES admitted that the interviewing agents
14 would find naked images of Juvenile 2 showing her exposed breast and "crotch" saved on
15 his email account in a file entitled "Nasty Pics". JONES stated that Juvenile 2 had sent the
16 images of herself, unsolicited. At the conclusion of the interview, JONES was transported
17 by Pierce County Sheriff's Office for booking into the state system.

18 19 CONCLUSION

20 27. Based upon all of the information set forth in this application, I respectfully
21 submit that there is probable cause to believe the instrumentalities, fruits, and evidence of
22 violations of Title 18, Sections 2251(a), 2252A, and 2423(b) are present on the items
23 identified on Attachment A. Accordingly, I respectfully request that this Court issue an order
24 authorizing the search of the MSN Hotmail accounts bryanvjones@hotmail.com and
25 bryanvancejones@hotmail.com for the items more specifically identified in Attachment A,
26
27
28

1 incorporated by reference hereto.

2
3 
4 DAVID WILLIAMS, Special Agent
Federal Bureau of Investigation

5
6 Subscribed to and sworn before me this 23rd day of July, 2004.

7 
8
9 PHILIP K. SWEIGERT
10 United States Magistrate Judge
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AFFIDAVIT OF DAVID WILLIAMS - 11

0000223

UNITED STATES ATTORNEY
601 Union Street, Suite 5100
Seattle, Washington 98101-3003

P. 18/20

TO 9180132220743

FROM

NOV-19-2004 09:26

ATTACHMENT A

Any authorized federal agent is directed to search the information associated with Internet electronic mail ("e-mail") accounts bryanvjones@hotmail.com and bryanvancejones@hotmail.com produced by MSN Hotmail, for all electronic mail communications containing or relating to MSN websites (whether real or fake), MSN account information, and credit card information; together with logs and account information that identify the persons controlling those accounts, and to seize the same, specifically:

- a. electronic mail (including attachments) stored and presently contained in, or on behalf of, the e-mail addresses/individual accounts;
- b. printouts of all of the above from original storage;
- c. any and all transactional information, to include log files, of all activity to the above-listed individuals which includes dates, time, method of connecting, IP address, port, dial-up, and/or location; and
- d. all business records and subscriber information, in any form kept, which pertain to the above-listed subscribers and accounts, including but not limited to applications, subscribers' full names, all screen names associated with those subscribers and accounts, all account names associated with those subscribers, method of payment, phone numbers, addresses, detailed-billing records, and account history (including customer Terms of Service and any complaints)

which are evidence of violations of Title 18, United States Code, Sections 2251(a) (Sexual Exploitation of Children), 2252A (Certain Activities Relating to Material Constituting or Containing Child Pornography), and 2423(b) (Travel with Intent to Engage in Sexual Acts with a Juvenile).

The items that are the subject of the search and seizure shall include the following:

ATTACHMENT A - 1

0000224

UNITED STATES ATTORNEY
601 Union Street, Suite 5100
Seattle, Washington 98101-3909
(206) 353-7970

TO 918013220743 P.05/20

FROM NOV-19-2004 09:24

- 1 (1) any and all correspondence pertaining to the possession,
2 receipt or distribution of visual depictions of minors engaged
3 in sexually explicit conduct, as defined in Title 18, United
4 States Code, Section 2256;
- 5 (2) any and all visual depictions, in whatever form, of minors
6 engaged in sexually explicit conduct, as defined in Title 18,
7 United States Code, Section 2256;
- 8 (3) any and all correspondence in whatever form, offering to
9 transmit through interstate or foreign commerce, including by
10 United States Mail, or by computer, any visual depictions of
11 minors engaged in sexually explicit conduct as defined in
12 Title 18, United States Code, Section 2256;
- 13 (4) any and all ledgers and records bearing on the production,
14 reproduction, receipt, shipment, orders, requests, trades,
15 purchases, or transactions of any kind, involving the
16 transmission, through interstate or foreign commerce
17 including by United States Mails or by computer, of any
18 visual depiction of minors engaged in sexually explicit
19 conduct, as defined in Title 18, United States Code, Section
20 2256;
- 21 (5) any and all address books, mailing lists, supplier lists, mailing
22 address labels, and all documents and records in whatever
23 form pertaining to the preparation, purchase, and acquisition
24 of names or lists of names to be used in connection with the
25 purchase, sale, trade, or transmission, through interstate or
26 foreign commerce, including by United States Mail or by
27 computer, of any visual depiction of minors engaged in
28 sexually explicit conduct, as defined in Title 18, United States

Code, Section 2256;

- (6) any and all address books, names, and lists of names and addresses of minors visually depicted while engaged in sexually explicit conduct, as defined in Title 18, United States Code, Section 2256;
- (7) any and all diaries, notebooks notes and other records in whatever form reflecting personal contact, and other activities with minors visually depicted while engaged in sexually explicit conduct, as defined in Title 18, United States Code, Section 2256; and
- (8) any and all correspondence, notes, diaries, or records in whatever form, pertaining to the travel in interstate or foreign commerce for the purpose of engaging in sexual activity with a minor or minors. The term minor as used herein means persons under the age of 18 years old;
- (9) any and all correspondence, notes, diaries, or records in whatever form, pertaining in any way to the individuals identified in the affidavit of Special Agent David Williams as "Juvenile 1" and "Juvenile 2"; and
- (10) any and all correspondence, notes, diaries, or records in whatever form, pertaining in any way to contact or communication with a minor or minors. The term minor as used herein means persons under the age of 18 years old.